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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,844	12/20/2000	Rudy Bonefas	003636.0099	3893

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MANELLLI DENISON & SELTER PLLC  
ATTN: WILLIAM H. BOLLMAN  
2000 M STREET N W  
SUITE 700  
WASHINGTON, DC 20016

EXAMINER
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PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
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2451

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03/10/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/739,844	<b>Applicant(s)</b> BONEFAS ET AL.	
	<b>Examiner</b> HASSAN PHILLIPS	<b>Art Unit</b> 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19,21-24,26-29 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19,21-24,26-29 and 31-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/23/08; 2/17/09; 2/3/09</u> .                                | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to communications filed December 22, 2008.

#### ***Information Disclosure Statement***

2. The information disclosure statements filed February 3 and 17, 2009, and September 23, 2008 have been received and considered by the examiner.

#### ***Response to Arguments***

3. Applicant's arguments filed December 22, 2008 with regards to the rejections of claims 19, 21-24, 26-29, and 31-33 under 35 U.S.C. 103(a) have been fully considered but they are not persuasive. Applicant argued: "Tanno discloses **REAL-TIME** monitoring of gateway load conditions and load factors to direct a client request to a gateway having minimum load." "However, Tanno fails to teach **past usage**, i.e., a **least RECENTLY used protocol gateway**, as a basis from which to route a message to a gateway." "Tanno fails to disclose **determining a least RECENTLY used protocol gateway supporting protocol of a source of a message**, much less as a basis to route a message to a determined **least RECENTLY used protocol gateway**, as recited by claims 19, 21-24, 26-29 and 31-33." Examiner respectfully disagrees with applicant's assertions.

4. With regards to applicant's remarks, examiner submits the real-time monitoring of gateway load conditions and load factors to direct a client request to a

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gateway having minimum load taught by Tanno encompasses applicant's claimed determining a least recently used protocol gateway and routing a message to the determined least recently used protocol gateway, since the teachings of Tanno suggest a gateway with the least load is the last gateway, and thus the least recently used gateway, chosen by a load balancer (i.e. 42) out of the gateways (2A-2N) to service a clients (3A-3N) request, (see Tanno abstract). Furthermore, nothing recited in applicant's claimed invention distinguishes from the interpretation given to the claims by the examiner. It is noted that the features upon which applicant relies in the remarks, (i.e., the present invention providing a **ROUND-ROBIN** load balancing to route a message to a least recently used protocol gateway) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. Accordingly the references supplied by the examiner in the previous office action covers the claimed limitations recited in claims 19, 21-24, 26-29, and 31-33. The rejections are thus sustained. Applicant is requested to review the prior art of record for further consideration.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19, 21-24, 26-29, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanno, J.P. Patent Pub. No. 10307782A, in view of Oehrke et al. (hereinafter Oehrke), U.S. Patent No. 7,047,300.

8. In considering claims 19, 24, and 29, Tanno discloses a message router (i.e. management server) for routing a message between a server (1) and a protocol gateway (i.e. 2A-2N), the message router comprising: a load balancer module (i.e. 42) to determine a least recently used protocol gateway supporting a protocol of said source of said message, (see abstract); and routing said message to said determined least recently used protocol gateway, (see abstract).

Although the teachings of Tanno disclose substantial features of applicant's claimed invention, they fail to expressly disclose: an authenticator to authenticate that a particular source of a message is an authorized user of a messaging network, said authenticator authenticating said particular source of said message before said message is routed by said message router.

Nevertheless, an authenticator to authenticate that a particular source of a message is an authorized user of a messaging network, said authenticator authenticating said particular source of said message before said message is routed by said message router was well known in the art at the time of the present invention. This

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is evidenced in the analogous teachings of Oehrke, where Oehrke discloses an authenticator to authenticate that a particular source of a message (i.e. user from company A) is an authorized user of a messaging network, said authenticator authenticating said particular source of said message before said message is routed by said message router, (col. 7, lines 56-60, col. 8, lines 4-9, 38-40, and col. 9, lines 19-41).

Thus, given the teachings of Oehrke, it would have been obvious to a person of ordinary skill to modify the teachings of Tanno to expressly disclose an authenticator to authenticate that a particular source of a message is an authorized user of a messaging network, said authenticator authenticating said particular source of said message before said message is routed by said message router. As was known in the art, this would have advantageously protected the messaging network by only allowing authorized users to access the network, (Oehrke, col. 9, lines 19-41).

9. In considering claims 21, 26, and 31, Tanno further discloses a router (i.e. 2A-2N) as a least recently used message router, (see abstract).

Although the teachings of Tanno disclose substantial features of applicant's claimed invention, they fail to expressly disclose: said message router/server (i.e. management server/main server 1) is a least recently used message router/server.

Nevertheless, it would have been obvious to one of ordinary skill in the art to modify the teachings of Tanno to disclose said message router/server (i.e. management server/main server 1) also as a least recently used message router (i.e. 2A-2N). As

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was known in the art, doing so would have further ensured efficient continuous communication between client and server, (Tanno, abstract), and also would have provided scaling of the message router/server and thus fault tolerance, (also see Oehrke, col. 5, lines 47-51).

10. In considering claims 22, 27, and 32, Oehrke discloses said message router routes said message to a most specific server corresponding to a message key, (col. 9, lines 19-41). One of ordinary skill in the art would combine the teachings of Tanno with Oehrke for reasons indicated in considering claims 19, 24, and 29.

11. In considering claims 23, 28, and 33, Tanno discloses said message router routes said message based on a content of said message (i.e. request for a gateway connection), (see abstract).

### ***Conclusion***

**12. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HASSAN PHILLIPS whose telephone number is (571)272-3940. The examiner can normally be reached on Mon-Fri (8am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hassan Phillips/  
Examiner, Art Unit 2451